

COPY

STATE OF NEW YORK
COUNTY OF ORANGE

ERIC K. MERRING,

Claimant,

-against-

THE TOWN OF TUXEDO POLICE DEPARTMENT
And the TOWN OF TUXEDO,

Respondents.

DATED: June 6, 2007
Poughkeepsie, New York
10:15 a.m. - 12:01 p.m.

Jennifer Cea, Reporter

EXAMINATION OF ERIC K. MERRING
HELD PURSUANT TO SECTION
50-H OF THE GENERAL
MUNICIPAL LAW

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APPEARANCES:

LEE DAVID KLEIN
Attorney for Claimant
11 Market Street, Suite 204
Poughkeepsie, New York 12601

HODGES, WALSH & SLATER, LLP
Attorneys for Respondent
75 S. Broadway, Suite 415
White Plains, New York 10601
BY: JOHN J. WALSH II, ESQ.

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MERRING

3

2

ERIC K. MERRING, the Claimant herein, having been

3

first duly sworn by a Notary Public within and

4

for the State of New York, was examined and

5

testified as follows:

6

7

8

9

BY MR. WALSH:

10 Q

Would you please state your full name for the
record.

11

12 A

Eric K. Merring.

13 Q

Where do you reside?

14 A

343 Bob Holloway Road, Delancey, New York 13752.

15 Q

Good morning, Mr. Merring. John Walsh is my name.
I'm representing the Town of Tuxedo in this matter.
I'm going to be asking you some questions about a
Notice of Claim you filed. If I ask you any
questions you don't understand, please let me know
and I will attempt to rephrase the question so that
you do understand. Do you understand that?

16

17

18

19

20

21

22 A

Sure. Absolutely.

23 Q

How long have you lived in Delancey, New York?

24 A

A significant amount of time, over 20 years.

25 Q

And have you always resided at 343 Bob Holloway

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MERRING

4

2

Road?

3

A

Yes.

4

Q

Have you had any interim addresses over the 20 years
where you lived elsewhere?

5

6

A

Yes.

7

Q

Where was the last place you lived?

8

A

The most recent?

9

Q

Yes.

10

A

504 Old Mill Road.

11

Q

Where is that?

12

A

Southfields, New York.

13

Q

And do you presently reside at 504 Old Mills Road in
Southfields?

14

15

A

I do not have a lease, if that's what you mean.

16

It's my girlfriend's apartment. That's my

17

girlfriend's apartment.

18

Q

What is your girlfriend's name?

19

A

Regina Blecher, B-L-E-C-H-E-R.

20

Q

So how long have you been staying with Regina?

21

A

A little more so now, because I have a newborn son,
but roughly --- it's hard to say --- roughly, I
don't know, a half year, I guess, I don't know.

22

23

24

Q

How about before you moved in with Regina, where
were you living?

25

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MERRING

5

2 A My father's address, 1 Amherst Road.

3 Q Is that also in Delancey?

4 A No, that is in New City, New York 10956.

5 Q That is your father's house, you said?

6 A Yes.

7 Q What is your father's first name?

8 A Kenneth.

9 Q Can I have your date of birth, please?

10 A

[REDACTED]

11 Q Your Social Security number?

12 A

[REDACTED]

13 Q Are you presently employed?

14 A Yes.

15 Q By whom are you employed?

16 A Davis Sports Shop, Sloatsburg, New York.

17 Q Do you have an immediate supervisor there at the
18 sports shop?

19 A No, just the owner, Wayne Davis.

20 Q What do you do for Davis Sport Shop?

21 A I'm a gun sales associate.

22 Q How long have you worked there?

23 A Since last September of '06.

24 Q Did you have another job before going to Davis
25 Sports Shop?

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MERRING

6

2 A Sure.

3 Q What was that, the last one before that?

4 A I was a car salesman for Harriman Chevrolet Cadillac
5 in Harriman, New York.

6 Q How long did you work in Harriman Chevrolet?

7 A I don't remember exactly. Roughly around three,
8 four months.

9 Q I'll take you back one more job before that?

10 A Then I worked for Dorson Environmental Management.

11 Q D-O-R-S-O-N?

12 A D-O-R-S-O-N.

13 Q Environmental Management?

14 A Yes.

15 Q What did you do for them?

16 A I was an environmental consultant.

17 Q How long did you work there?

18 A Roughly --- it was a consulting job --- only about
19 two months. Maybe closer to three months, closer to
20 three months.

21 Q Do you have some type of experience or training in
22 environmental consulting?

23 A Sure; that's what I went to school for.

24 Q Do you have a degree?

25 A Yup. I have a BA from Binghamton University,

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7

2

environmental science, animal biology minor.

3

Q When did you get that?

4

A In 1995.

5

Q Apart from Dorson, have you worked anywhere else in
6 the environmental field?

7

A Absolutely.

8

Q Can you tell me where else?

9

A Prior to that I worked for a company called Nature
10 Technologies. They were based in Pleasantville, New
11 York.

12

Q What does an environmental consultant do exactly,
13 just curious?

14

A I was consulting for insurance company --- well,
15 through insurance companies indirectly, for leaking
16 tanks in houses and dwellings.

17

Q Oil tanks?

18

A Oil tanks. And testing water, soil and so forth,
19 and if it led to an impacted site, we would have a
20 subcontractor come in and excavate the property. I
21 had to oversee that.

22

Q Where was Dorson Environmental?

23

A They were Elmsford, New York. They were located out
24 of Elmsford, New York.

25

Q What is the reason you got out of the environmental

1

MERRING

8

2 consulting business?

3 A Not much money in it.

4 Q That is a good reason as any. You say you have a
5 newborn baby?

6 A Urn-hum.

7 Q Congratulations .. A boy or a girl?

8 A A little boy. /

9 Q Do yoh ~ve any other children?

10 A Yes, I have a nlne-year-old boy from my --- well,
11 now divorced wife.

12 Q And then when was the new baby born?

13 A November 6, 2006.

14 Q And I'm sorry, is that a boy or girl?

15 A Little boy. Two boys.

16 Q So you have been through a divorce process. Have
17 you been involved in any other legal, civil legal
18 proceedings?

19 A Civil, explain civil.

20 Q As opposed to criminal, have you been in any other
21 lawsuits apart from the divorce proceeding?

22 A As an injury. I was injured when I worked at a
23 previous job, if that's what you mean.

24 Q So you brought a lawsuit against somebody for
25 personal injuries that you suffered while you were

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MERRING

9

2

working?

3

A

Yes.

4

Q

When did that injury take place, the accident?

5

A

October 24, 2002.

6

Q

And is that lawsuit resolved?

7

A

It's still pending.

8

Q

Do you have an attorney in that lawsuit?

9

A

I do.

10

Q

Who is that?

11

A

Patrick Benn, located in Manhattan, New York.

12

Q

Spell the last name?

13

A

B-E-N-N.

14

Q

Is he with a firm?

15

A

Yes.

16

Q

Do you know the name of the firm?

17

A

One moment; Estrin, E-S-T-R-I-N and Benn, B-E-N-N,

18

LLC. Do you need the address?

19

Q

If you have it.

20

A

225 Broadway, New York, New York.

21

Q

Is that lawsuit pending in New York City?

22

A

Rockland County.

23

Q

Just generally, what part of your body did you

24

injure in that accident?

25

A

Left foot.

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MERRING

10

2 Q Do you have a trial date on that?

3 A Pat has not told me that information yet.

4 Q Who is the defendant?

5 A I don't know his name. It's a construction firm.

6 Q Do you know who the defendant's attorney is?

7 A Negative.

8 Q Have you been through depositions in that matter?

9 A Yes, I have.

10 Q Have you ever been through a deposition before apart

11 from today and the one in the personal injury

12 lawsuit?

13 A No.

14 Q I understand this matter stems out of an arrest that

15 occurred on December 4, 2006; is that correct?

16 A Correct.

17 Q Had you ever been arrested before December 4, 2006?

18 A Negative.

19 Q Had you ever received any speeding tickets or other

20 violations prior to December 4, 2006?

21 A Received just a ticket or convicted of speeding?

22 Q Start with having gotten a ticket?

23 A Absolutely.

24 Q We all have.

25 A Absolutely. Throughout college, absolutely.

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MERRING

11

2 Q And have you ever pled guilty or been convicted of a
3 traffic violation?

4 A Lower than speeding, yes.

5 Q So you pled down to something?

6 A Sure.

7 Q And prior to December 4, 2006, had you ever received
8 any other tickets from any members of the Town of
9 Tuxedo Police Department?

10 A I did.

11 Q On how many occasions?

12 A At least one. I believe it was one. No, I'm sorry,
13 two. That's right, it was two. It was two.

14 Q And do you know the names of the police officers who
15 gave you those tickets?

16 A One of them was Officer Williams. Do you need to
17 know what the ticket was for?

18 Q Okay, what was it for?

19 A I was charged with aggravated unlicensed or sus _
20 driving with a suspended license when my license was
21 not suspended.

22 Q So were you able to resolve that when you went to
23 court?

24 A It was dismissed, and rightly so.

25 Q Have you ever had your driver'S license suspended?

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MERRING

12

2 A Never.

3 Q Do you know why it was that Officer Williams
4 believed you had your driver's license suspended?

5 A I do not know, nor did my attorney at the time.

6 Q Were you pulled over for some other violation and
7 showed your license and then got the unlicensed
8 violation?

9 A I must have been. I really don't remember what it
10 was for, though.

11 Q Do you remember about when that was, you got pulled
12 over?

13 A Give me one moment.

14 Q Sure.

15 A January 22, 2006.

16 Q You're looking at a document of some kind?

17 A Certificate of disposition.

18 Q Can I see that, please?

19 BY MR. KLEIN:

20 Show it to him.

21 BY THE WITNESS:

22 A (Hanging)

23 BY MR. WALSH:

24 Q Thank you. Do you have any documents that would
25 indicate what the initial stop was for that led to

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MERRING

13

2

the aggravated unlicensed charge?

3

A Not with me.

4

Q But you paid a \$100 fine as a result of something at

5

the time the aggravated unlicensed charge was

6

dropped; is that right?

7

A Give me a moment, let me think for a second.

8

Q Here, you can look at the document.

9

A I do remember now. I do remember. He did pull me

10

over for 40 miles an hour in --- 45 in a 40.

11

Q And you paid a fine, you pled to stopping on the

12

pavement or something?

13

A Correct.

14

Q And you said there was another time that you had

15

been pulled over prior to December 4, 2006 by a

16

Tuxedo police officer?

17

A Yes, that was Officer Delio.

18

Q Do you remember about when that was?

19

A Roughly, it was warm weather. It was roughly early

20

mid spring, maybe early summer.

21

Q Do you have any documents with you today that would

22

refresh your recollection as to when you were first

23

pulled over by Officer Delio?

24

A I do not.

25

Q Did he issue a citation of any kind?

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MERRING

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2 A Yes, for cell phone.

3 Q And were you using a cell phone at the time?

4 A No, I was not.

5 Q Did you plead guilty to anything as a result of the
6 mid-spring time that Officer Delio pulled you over?

7 A I went before the judge --- well, I was at the
8 judge, and at the last moment then Officer Delio
9 offered the lowest he could go was parking on
10 pavement or something to that effect.

11 Q Did you plead guilty to that?

12 A I did. I did.

13 Q So we have then three times you have been stopped by
14 the Tuxedo police officers; is that correct, total?

15 A Correct.

16 Q And are you presently licensed to carry a firearm?

17 A I am.

18 Q When did you get your license to carry a ---
19 withdrawn. When was the first time you became
20 licensed to carry a firearm?

21 A It was April 1988.

22 Q And what was your occupation at that time?

23 A Student.

24 Q At Binghamton?

25 A No, at SUNY Delhi. SUNY University of New York at

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MERRING

15

2

Delhi.

3

Q

Is there a reason why you felt it was necessary to become licensed to carry a firearm?

4

5

A

I enjoy shooting sports. I enjoy hunting. It's a great pastime.

6

7

Q

And was that out of Delaware County you received that gun license?

8

9

A

Correct.

10

BY MR. KLEIN:

11

Let him finish the question.

12

BY MR. WALSH:

13

Q

Excuse my ignorance, do gun licenses require renewals?

14

15

A

Not in Delaware County. Some counties do.

16

Westchester County is one example.

17

Q

Were you living in Delaware County as a result of going to Delhi at the time you got that license?

18

19

A

I was living --- Delancey, it's really Delancey.

20

Delhi prior to that.

21

Q

Is Delancey in Delaware County?

22

A

Yes.

23

Q

Was there a form you had to fill out when you applied for the gun license?

24

25

A

Yes.

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MERRING

16

2 Q Is there any type of restriction on the number of
3 firearms you're allowed to own?

4 A No.

5 Q So one gun license and you can own all the --- I
6 guess it's a pistol permit; is that right?

7 A pistol.

8 Q Once you had a pistol license, it's your
9 understanding you can own as many pistols as you
10 want under one license?

11 A Yes.

12 BY MR. KLEIN:

13 Off the record.

14

15 (OFF THE RECORD DISCUSSION)

16

17 BY MR. WALSH:

18 Q Have you applied for supplemental permits since you
19 got your initial first license?

20 A Yeah, because I have added pistols prior (sic) to
21 the first pistol, sure.

22 Q Subsequent to the first pistol, every time you buy a
23 pistol, you have to get some kind of supplemental
24 purchase; is that right?

25 A They call it a coupon, purchase order signed by the

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MERRING

17

2

judge.

3

Q Is that fee so the state makes money?

4

A \$3. I think it's the county.

5

Q Do you have to fill out some kind of form every time
6 you apply for the supplemental coupon?

7

A Actually, no. I would just call the pistol clerk or
8 write a letter and she would send the coupons to me.

9

Q Do you presently own a pistol?

10

A Yes.

11

Q How many do you presently own?

12

A Exact number?

13

Q I'll take a rough estimate.

14

A Around 15.

15

Q Do you own other firearms as well?

16

A Hunting rifles, yes, and shotguns.

17

Q And about how many hunting rifles do you own
18 presently?

19

A Four.

20

Q You said shotguns as well, how many shotguns?

21

A Four.

22

Q You do bow-hunting as well?

23

A I do.

24

Q November is a busy month for you, I guess.

25

A Yes.

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MERRING

18

2 Q Have you ever applied for a gun license in Orange
3 county?

4 A No.

5 Q Or in any other county other than Delaware County?

6 A No.

7 Q I understand as part of your claim that as a result
8 of the arrest of December 4, 2006, your pistol
9 permit was suspended; is that correct?

10 A Correct.

11 BY MR. WALSH:

12 Mark that.

13

14 (ORDER SUSPENDING LICENSE RECEIVED

15 AND MARKED AS RESPONDENT'S EXHIBIT

16 A FOR IDENTIFICATION)

17

18 Q I show you what we have marked as Respondent's A for
19 Identification for today's date and ask that you
20 take a look at that. Is that the order suspending
21 your pistol permit served upon you following your
22 arrest on December 4, 2006?

23 A That is such. This is a copy of it, yes.

24 Q Was that ever served upon you?

25 A By mail, not in person.

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MERRING

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2 Q Have you received a copy?

3 A Absolutely. Yeah, by fax and by mail.

4 Q As a result of receiving a copy, did you turn in
5 your pistols?

6 A No, I did not.

7 Q What did you do after you received a copy of this
8 order?

9 A Well, my pistols are also co-owned by my father, so
10 through Mr. Klein, we respectively wrote the jUdge
11 for guidance, and no follow-up for surrendering
12 firearms to the state police was necessary. They
13 were locked in my father's safe.

14 Q So Mr. Klein wrote a letter to JUdge Becker; is that
15 right?

16 A Yes, and/or spoke to him on the telephone.

17 Q And as a result, the guns were then locked in your
18 father's safe?

19 A Yes, I was stripped of my firearms. I did not have
20 a firearm. I complied with the full order from the
21 judge, and it remained so until the order was
22 vacated.

23 Q When was the order vacated?

24 A The exact date?

25 Q Approximately.

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MERRING

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2 A Approximately two, two-and-a-half months later.

3 Q And at that point, were the guns returned to you?

4 A At that point, I probably picked up maybe one of my
5 firearms or something at my father's residence.

6 Q But you were allowed to pick up anyone you wanted?

7 A I --- correct. Absolutely. The license was back in
8 full force at that point. Reinstated.

9 Q So presently, again, you are licensed to carry
10 firearms; is that right?

11 A Correct.

12 Q Just to make it clear, that license was suspended
13 for approximately two to two-and-a-half months?

14 A Correct.

15 Q Okay, at the time that you were initially pulled
16 over on December 4 of 2006, where were you coming
17 from?

18 A I was coming from Southfields, New York.

19 Q That would be from your girlfriend's house?

20 A Correct.

21 Q And where in Southfields does she live; whereabouts
22 is that in relation to say the Red Apple Rest?

23 A Approximate distance?

24 Q South of it, north of it?

25 A A little north of it, less than a half mile.

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MERRING

21

2 Q Is it on the left side or the right side as you head
3 north?

4 A Left.

5 Q And where were you going to at the time you were
6 first pulled over on December 4?

7 A I was driving to work at that it was a Monday.

8 Q So you were heading south?

9 A Yes, on 17.

10 Q And where were you on Route 17 when you first became
11 aware that Officer Delio was trying to pull you
12 over?

13 BY MR. KLEIN:

14 Objection to the form. He wouldn't know at
15 that instant it was Officer Delio. You're
16 referring to knowing that a police officer was
17 behind him?

18 BY MR. WALSH:

19 Q It was Officer Delio who eventually pulled you over;
20 is that right?

21 A Correct.

22 Q When was it that you first became aware that a
23 police officer was pulling you over?

24 A At what area?

25 Q Yes.

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MERRING

22

2 A Like give a reference? As a reference it is
3 abandoned now --- but there's an abandoned
4 restaurant called the Duck Cedar Inn, and he was
5 directly across the street from there apparently.
6 He wasn't immediately behind me for a short
7 distance, but ...

8 Q Did you see him pullout of the parking lot across
9 the street from the Duck Cedar Inn?

10 A Vaguely.

11 Q Did he have his lights on as he came out?

12 A No.

13 Q Did he pull in behind your vehicle?

14 A Not immediately, but, yes.

15 Q How fast were you traveling when you first became
16 aware of the police officer?

17 A I wasn't looking at my speedometer.

18 Q What was your highest rate of speed on Route 17
19 before you were pulled over?

20 A Could you rephrase that question?

21 Q What was your highest rate of speed on Route 17 that
22 morning before you got pulled over?

23 A Speed limit, 55.

24 Q And did Officer Delio put on his lights, his
25 overhead lights?

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MERRING

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2 A When he was directly behind me, yes.

3 Q Did you glance at your speedometer when you first
4 saw Officer Delio pullout?

5 A No.

6 Q Were you in the right lane or the left lane when you
7 first saw Officer Delio pullout?

8 A **Left .**

9 Q And from the time he put his lights on until the
10 time you pulled over, how much distance do you
11 figure you were traveling?

12 A Roughly between a quarter of a mile to a half mile.
13 There was no real place to pullover safely.

14 Q Where did you pullover?

15 A Stoneridge Road.

16 Q Was that on the right side or left side as you
17 headed south on 17?

18 A Right side.

19 Q So you didn't pullover onto the shoulder of 17, you
20 pulled into a side street; is that right?

21 A I had to, there was no safe road room.

22 Q About what time of day was it?

23 A 9:00 a.m.

24 Q After you pulled over, you eventually brought your
25 vehicle to a stop, is that right?

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MERRING

24

2 A Full stop.

3 Q What kind of car were you driving at the time?

4 A 1987 Cadillac Fleetwood Brom.

5 Q Do you remember what the weather was like that day?

6 A Clear, no rain.

7 Q Was it cold?

8 A I should say snow. No snow.

9 Q Cold day?

10 A I had a jacket on, so it must have been cooler.

11 Q How far off 17 did you pull onto Stoneridge Road?

12 A 75, 80 yards.

13 Q After you brought your vehicle to a stop, did you

14 remain in your vehicle until the police officer

15 approached your door?

16 A Yes.

17 Q How long after you brought your vehicle to a stop

18 did he approach you?

19 A Less than a minute.

20 Q Did you recognize the police officer?

21 A I did.

22 Q Again, Officer Delio?

23 A It was.

24 Q And how did you recognize him?

25 A He had given me a ticket for a cell phone prior to

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MERRING

25

2

that.

3

Q

And when Officer Delio approached your car, did you
roll down your window?

5

A

It was already down.

6

Q

And when he got to your window, who spoke, you or
the officer first?

8

A

He did.

9

Q

And what did he initially say?

10

A

I don't know the exact words, but it was not
verbatim You were speeding, I need to see your
driver's license, registration, and insurance
cards.

14

Q

Did you say anything to him in that initial
conversation?

16

A

I complied. As I was reaching for my insurance
cards in my glove box, I immediately stated that I
was carrying my license and handgun on my right hip.

19

Q

So were you the first person to bring up the fact
you were carrying a weapon at the time?

21

A

Yes, I offered that information.

22

Q

Did he respond when you told him that?

23

A

Yes.

24

Q

What did he say?

25

A

"What valid reason do you have for carrying your

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MERRING

26

2

handgun on you right now?"

3

Q And did you respond to that?

4

A I did.

5

Q And what did you say?

6

A I said, "I have an unrestricted New York State
pistol license. I don't necessarily have to have a
reason to have it on me, but I happen to be going to
work behind the sales counter at Davis Sports shop."

10

Q Did he respond to that?

11

A Yes.

12

Q What did he say?

13

A "That's not a valid reason."

14

Q Did you respond to him telling you he did not
believe your reasons were valid?

16

A He repeated it.

17

Q Did you say anything back to him in that regard?

18

A I stated, again, that it is an unrestricted license
handgun, I'm allowed to have it on my person at any
time. At which time he made a cell phone call.

20

21

Q So when he made the cell phone call, did he walk
away from the car?

22

23

A He was right next to the car.

24

Q Did he have your insurance, license and registration
when he made the cell phone call?

25

2 A He had at least my driver's license and
3 registration. I don't know if I even made it to my
4 insurance cards at that point.

5 Q Did he ask you at any time for a copy of your pistol
6 permit?

7 A Yes, at that point he did.

8 Q Was that before he made the cell phone call?

9 A After.

10 Q First he made the cell phone call, then he asked for
11 the pistol permit?

12 A In that sequence, probably.

13 Q Were you carrying your pistol permit?

14 A Of course.

15 Q It was in your wallet?

16 A Separate wallet.

17 Q Did you hand it to him at that point?

18 A The entire thing. He had every piece of ID I had at
19 the time or just immediately after he was making
20 that cell phone call.

21 Q I'm confused a little bit here. It's probably me.
22 Did you give him the pistol permit before or after
23 he made the cell phone call, if you can recall?

24 A I remember showing him, I don't know if he had it in
25 his physical hand at the time he was making the cell

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MERRING

28

2

phone call. He may have. I do know that at the

3

time soon after he had every piece of documentation

4

that I could provide.

5 Q

Sometimes we attorneys ask you to remember details

6

that we realize are impossible to remember. If you

7

don't recall, please feel free to tell me you don't

8

recall.

9 A

That's fine.

10 Q

What was the tone of this conversation you had with

11

Officer Delio?

12 A

His tone or mine?

13 Q

Let's start with his tone?

14 A

Very angry. Initially as he came up to the door,

15

very angry.

16 Q

Your tone?

17 A

Very calm, collected.

18 Q

Were you able to ascertain what it was that had

19

angered Officer Delio?

20 A

No.

21 Q

At the prior time that Officer Delio had pulled you

22

over, had there been any angry words exchanged?

23 A

I would say agitated. I wouldn't say angry, per se.

24

I believe you're speaking about the cell phone?

25 Q

Right.

1

MERRING

29

2 A I believe he probably just maybe had a bad morning
3 or something, nothing piqued my interest as far as
4 being out of the ordinary that day.

5 Q Was there a difference generally in the tone of his
6 voice the second time he pulled you over as opposed
7 to the first time?

8 A Absolutely.

9 Q What was the difference?

10 A He was angrier. He was already coming to the car
11 mad when I was pulled over on Stoneridge Road.

12 Q Have you ever discussed Police Officer Delio with
13 anyone else, I mean, generally who may have known
14 him outside of the --- (interrupted)

15 A At the time of my arrest or prior to that?

16 Q Since then?

17 BY MR. KLEIN:

18 Can I interject, are you asking anytime from
19 (interrupted)

20 BY MR. WALSH:

21 Q Anytime from the beginning of time until present, a
22 part from with your attorney, of course, or any
23 attorney, have you had any conversation generally
24 about Officer Delio with friends, acquaintances,
25 other people who may know him?

1

MERRING

30

2 A Oh, I did. Regina, my girlfriend, he pulled my
3 girlfriend over too, and he was very, very --- well,
4 put it this way, he pulled behind her. I don't
5 know, necessarily know if it was for a traffic stop
6 at that time, it might have been. I don't remember
7 the exact details of her scenario, but I do remember
8 she was also very angry at him because he had a
9 sense of entitlement, and he rolled his eyes at her,
10 and she got extremely angry, and her words were to
11 the effect: Don't you roll your eyes at me. You're
12 a civil servant, I pay your salary, and if you
13 continue to do so, I have a long string of attorneys
14 in my family and I will sue you.

15 Q What is her last name again?

16 A Blecher.

17 Q I'm just curious, who are her family members who are
18 attorneys?

19 A I don't know all her cousins. She has a ton of
20 cousins.

21 Q Did Regina know Officer Delio outside of that
22 traffic stop?

23 A No, never. Never.

24 Q Anybody else you have ever spoken to about Officer
25 Delio?

1

MERRING

31

2 A Not specifically Officer Delio. I have spoken to
3 state troopers about Tuxedo police officers, not
4 specifically him.

5 Q Did you overhear the phone conversation Officer
6 Delio had while he was standing outside your car on
7 December 4, 2006?

8 A It was inaudible. I couldn't hear him, but took the
9 inference of who was called and what was said,
10 because about a minute later another police car
11 pulled up with his emergency lights flashing.

12 Q Were you still in your vehicle when the other police
13 car pulled Up?

14 A The entire time.

15 Q How long after you were initially stopped did the
16 second police car pull up, about?

17 A Less than ten minutes.

18 Q Did you have a cell phone with you when you were
19 pulled over?

20 A **No.**

21 Q No?

22 A No.

23 Q And did you speak to the second police officer when
24 the second police officer arrived?

25 A It was a sergeant.

1

MERRING

32

2 Q Do you know who it was?

3 A I believe his name is Welch, Sergeant Welch.

4 Q Patrick?

5 A I don't know his first name.

6 Q During the interim between the time the cell phone
7 call was made and Sergeant Welch appeared, what if
8 anything occurred at the scene?

9 A As I remember, Officer Delio has all my ID and he
10 went back to his police car.

11 Q When Sergeant Welch arrived, did he come directly to
12 you?

13 A He went straight to the police car first, spoke to
14 Officer Delio in his patrol car, 15, 20 seconds, if
15 that, and then the sergeant approached my vehicle.

16 Q Who spoke first, you or Sergeant Welch?

17 A Sergeant Welch.

18 Q What did he say initially?

19 A "What valid reason do you have for having your
20 handgun on you right now?"

21 Q And I assume you responded?

22 A Same as I did to Officer Delio. "I have an
23 unrestricted pistol license, New York State, and
24 don't have to have a specific reason for carrying as
25 some licensors do, restricted to hunting, camping

1

MERRING

33

2 fishing, hiking, informal target shooting.

3 Q And how did Sergeant Welch respond to that?

4 A I believe he asked again. I believe he asked the
5 same question again.

6 Q Did you give him the same response?

7 A Same response.

8 Q What was Sergeant Welch's tone in this initial
9 conversation?

10 A Agitated.

11 Q Did you know Sergeant Welch prior to December 4,
12 2006?

13 A No, never saw him in my life, that I could recall.
14 Maybe I saw him in a bagel shop or something.

15 Q You don't know him from Davis, for instance?

16 A No, no never. Nothing like that.

17 Q Have you ever had any conversations with anyone
18 about Sergeant Welch?

19 A Not specifically. Like I said, prior to, I spoke to
20 a couple of state troopers about Tuxedo police
21 officers in general.

22 Q After your initial conversation with Sergeant Welch,
23 what happened?

24 A He did not ask anything about the initial stop, my
25 driver'S license or anything else. It was strictly

1

MERRING

34

2 about my handgun, back and forth several times, and
3 then he ultimately, after I would say between five
4 and ten minutes roughly, he asked me to step out of
5 the vehicle, and he opened the door.

6 Q Was there any discussions apart from I mean ---
7 withdrawn. The two of you were there at your door
8 for five or ten minutes before he asked you to get
9 out of your car. Were there any other conversations
10 other than the conversation of him inquiring as to
11 your handgun with you?

12 A Where is the handgun? You know, it's on my right
13 hip. I had explained that to Officer Delio. His
14 line of questioning was strictly, strictly channeled
15 into, you have a license, why did you have the
16 handgun on?

17 Q It was limited to that?

18 A He may have asked, you know, where you're going, you
19 know, what --- you know, and at that time
20 (interrupted)

21 Q At some point it was Sergeant Welch who asked you to
22 get out of the car?

23 A He told me to get out of the car.

24 Q Did you get out of the car?

25 A I opened the car door, he pulled the door open. As

1

MERRING

35

2

I stepped out, he grabbed my arm, Place your hands
on top of your --- or above you, which I did. And
he proceeded to frisk me immediately.

3

4

5 Q

So did he actually take you by the arm and pull you
out of the car?

6

7 A

He didn't lift me out of the seat, but as I was
getting out, he helped me, I should say.

8

9 Q

Did he grab your arm?

10 A

Left arm. I believe it was my left --- because my
right arm would have been blocked by the door, so he
sort of got me around my own door.

11

12

13 Q

I just want to know if there was physical contact
between the two of you as you were getting out of
the car?

14

15

16 A

Absolutely.

17 Q

Can you describe the physical contact between the
two of you as you were getting out of the car?

18

19 A

I just did. As I was sitting up to get my leg out,
he grabbed me --- not bare arm, it was my leather
jacket. He grabbed my arm as I was coming out. I
don't even know if the door was closed at that
point. The door may be open at that point. He
asked me to raise my arms, which I did, and
immediately he was behind me starting to pat me down

20

21

22

23

24

25

1

MERRING

36

2

--- actually in front of me first, patting me down

3

through the inside of the jacket, down to my hips

4

all around. He felt my handgun on my right hip and

5

proceeded to withdraw it from my holster.

6 Q

After you got out of car, he asked you to put your

7

hands over your head?

8 A

Immediately.

9 Q

And you complied?

10 A

Absolutely.

11 Q

And it was while your hands were over your head that

12

he patted you down?

13 A

Yes.

14 Q

Did he take your pistol from you at that time?

15 A

Once he felt the handgun, he removed it from my

16

holster. At the time when he grabbed it, I said,

17

It's not loaded. There is no bullet in the chamber,

18

just the magazine is full. At that point he already

19

ejected the magazine and he held the slide back.

20 Q

So it was while your hands were up, he patted you

21

down, took your handgun, you tell him there is no

22

rounds in the chamber?

23 A

Correct.

24 Q

And at that point he'S holding the gun; is that

25

right?

1

MERRING

37

2 A At that point he's approximately behind my --- the
3 knee of my trunk. I'm on the top of my car with my
4 hands on the roof of my car and he's in essence
5 emptying the gun. It was not chambered, but the
6 magazine was full, and he held the slide open.

7 Q So he ejected the magazine?

8 A He ejected the magazine and then locked the handgun
9 in the open position.

10 Q And your hands were, by that time, on the roof of
11 your car?

12 A Yes, as I recall.

13 Q Was there any other physical contact between you and
14 Officer Welch at the scene?

15 A Yes, he then --- once he placed the handgun on my
16 trunk he proceeded to continue to pat me down,
17 frisked me, when he noticed in my right front pocket
18 a knife, and immediately upon grabbing the knife
19 pulled it out of my pocket. He tried to open it by
20 shaking it, it did not open, and he said, Put your
21 hands behind your back, you're under arrest for
22 carrying a gravity knife, or a knife that could be
23 opened by centrifugal force. And I complied. My
24 hands were already behind my back. He helped me,
25 quite physically, put my hands behind my back and

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MERRING

38

2

proceeded to put handcuffs on me.

3

I asked immediately, What am I being charged

4

with? He rattled a sequence of numbers, I don't

5

remember the numbers, and he said, "Criminal

6

possession of a weapon, fourth degree," as he's

7

grabbing the chain of the handcuffs, pushing me

8

towards Officer Delio's patrol car.

9 Q

Let's step back so I can take it a little more step-

10

by-step here. While he's patting you down, he feels

11

a knife in one of your pockets?

12 A

Correct.

13 Q

Which pocket?

14 A

My right front pocket.

15 Q

You were wearing jeans?

16 A

Yes, denim jeans.

17 Q

Did he take the knife out of your pocket?

18 A

Yes.

19 Q

How big a knife is it?

20 A

The length?

21 Q

Closed?

22 A

Maybe four inches, three-and-a-half, four inches.

23 Q

How long was the blade?

24 A

The blade is probably three-and-a-half, four inches.

25 Q

And why was it that you were carrying a knife?

2 A It's my personal property. I just had my knife with
3 me. I always have my knife with me. At Davis I
4 open boxes a lot. I use it for that.

5 Q You say he attempted to open the knife and it would
6 not open?

7 A He attempted to open it by gravity or force, by
8 shaking it; it did not open as I recall.

9 Q Was it a knife that you can flip open with a flip of
10 the hand?

11 A No.

12 Q Is there some kind of lock mechanism that keeps it
13 from opening that way?

14 A It's not designed that way. It is not a per se
15 centrifugal force or gravity mechanism.

16 Q So to open the knife, it requires --- (interrupted)

17 A Spring tension.

18 Q To open the knife, it requires you use two hands?

19 A If you trained yourself you could open it with one
20 hand if you chose to by sliding the blade with your
21 thumb.

22 Q You would have to push it with your thumb to open
23 it?

24 A I suppose you could use your index finger, it would
25 be clumsy, but the thumb would be the most common

1

MERRING

40

2

way to do it.

3

Q Is there a button?

4

A No button.

5

Q Any kind of latch mechanism to keep it closed?

6

A To keep it closed. There is a mechanism, it is a

7

spring, in essence, it will lock open --- it locks

8

when it's completely opened.

9

Q How about locked closed, is there anything that

10

locks it closed?

11

A Other than spring tension, the force it takes to

12

actually --- for the spring to keep that blade down

13

into its handle, which is --- acts like a sheath. I

14

don't know however many pounds of force it takes,

15

but it would keep it inside the handle.

16

Q Let me ask you, is it a knife when you flip it you

17

can open it?

18

A No.

19

Q Did Officer Welch attempt to flip the knife open at

20

all at the scene?

21

A As I remember, he did a few times.

22

Q How many times?

23

A At least twice, maybe three.

24

BY MR. KLEIN:

25

Sergeant Welch?

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MERRING

41

2 BY THE WITNESS:

3 A Sergeant.

4 BY MR. WALSH:

5 Q Sorry, just so we're clear. Two or three times
6 Officer Welch attempted to flip the knife open, he
7 was unable to do so?

8 A As I can see. You must understand, I'm facing this
9 way and he'S like right there (indicating). This is
10 all a matter of seconds. Out of my peripheral
11 vision, I could see him trying to attempt to open it
12 as soon as he had it in his possession. Was it six
13 times, I doubt it. It was between two and three, I
14 think so.

15 Q Did he get the knife open that day in your presence?

16 A I don't remember the blade actually being out in
17 front of me. If he did, he did that when I was
18 already in the police car.

19 Q Were the attempts to open the knife by Officer Welch
20 made before or after you were handcuffed?

21 A Before, immediately before. As I remember, he was
22 trying to open it while he'S stating the words that
23 "This is an illegal knife. Place your hands behind
24 your back."

25 Q You say that Officer Welch helped you place your

1

MERRING

42

2 hands behind your back?

3 A No, he grabbed both my arms and pulled them down to
4 my lower back.

5 Q How would you describe the force he used when doing
6 that?

7 A Enough to get the job done, but I wasn't resisting
8 either, so my muscles and arms were already in that
9 motion anyway.

10 Q You did not resist when he attempted to handcuff
11 you?

12 A Not one ounce.

13 Q Okay. At this point you would be standing next to
14 the car with your hands handcuffed behind your back;
15 correct?

16 A For a matter of seconds, because at that point he
17 was already whisking me away by grabbing the
18 handcuff chain. I would say lifting it a little
19 bit, and his other arm was pushing my leather jacket
20 in my back, pushing me towards Officer Delio's
21 police car.

22 Q So how long were you handcuffed for before you were
23 put in the police car?

24 A From the time I was handcuffed until I was placed in
25 the police car, two or three minutes.

1

MERRING

43

2 Q Was there any further conversation while you were
3 handcuffed before you were put in the police car?

4 A I specifically stated two or three times, What am I
5 being charged with, on what charge? He would rattle
6 off again the sequence of numbers and criminal
7 possession of a weapon, fourth degree.

8 Q You understood that to be Penal Law section, the
9 numbers he was rattling off to you?

10 A It must have been. He wasn't speaking about federal
11 statute or any other state. At this point in time
12 you must understand, I was in complete shock.

13 Q Were you in pain of any kind?

14 A The cuffs were very tight.

15 Q So you were put in the back seat of Officer Delio's
16 vehicle; is that right?

17 A Yes.

18 Q Was there any other physical contact you had between
19 you and any other police officers at the scene that
20 you haven't told me about?

21 A At the scene, no. Once I was in the police car I
22 was incarcerated in the police car while they
23 illegally searched my car.

24 Q Did you watch them search your car?

25 A Right through the windshield.

1

MERRING

44

2 Q Who was it who searched your car?

3 A Both men, both officers.

4 Q Did they find anything during the search of your
5 car?

6 A They found a bunch of stuff. One, they found an old
7 stick. Officer --- sorry, Sergeant Welch found that
8 --- found an old stick by my passenger's floor
9 board, just a stick.

10 Q Can you describe it for me?

11 A A stick about, I don't know, 18 inches, maybe two
12 feet long, rounded.

13 Q It had bark on it?

14 A No bark, but it was unstained. It was wood. It was
15 wood. It was like pine or something.

16 Q I mean, when you say a stick, I mean something you
17 break off a tree?

18 A Hit my tires with, you know, just a stick. I'm not
19 going to say a machine, but a fabricated stick.

20 Q Did it have a handle of any kind?

21 A Nothing, just wood. Just a solid piece of wood.

22 Q Was it carved in any way, anything like that?

23 A I don't remember if it was smooth or if it had maybe
24 some fine grooves, I don't remember.

25 Q It was like a billy club-type stick?

1

MERRING

45

2 A What is a billy club?

3 Q Something you would use to hit somebody with?

4 A It was definitely not a legitimate police night-
5 stick, if that's what you mean. This had absolutely
6 no weight. It was realistically, it was --- I used
7 it for hitting my tires.

8 Q You would hit your tires with this stick?

9 A Yeah, see how, you know.

10 Q Was that the only purpose you used this stick for,
11 was to hit your tires?

12 A Yeah.

13 Q I'm just a little confused. Do you typically carry
14 a stick around your cars to hit your tires with?

15 A Sometimes I carry rifles, shotguns, pistols. A
16 stick is nothing.

17 Q How long were you in Officer Delio's car before you
18 were driven from the scene?

19 A There were other things that Sergeant Welch found
20 that he brought back to the police car.

21 Q While you were in --- (interrupted)

22 A Once he brought the stick back, he said, You're
23 being charged with this. He threw it in the front
24 seat of the patrol car. Then he came back again,
25 rifling through my stuff illegally, he went through

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MERRING

46

2

my hunting backpack. There was probably some _

3

just some, you know additional clothing, you know,

4

maybe some hats, gloves or small stuff, but there

5

was one of my liquid containers was in the hunting

6

pack and he came back and said, What is in this

7

container? It was a black plastic container. I

8

said, I don't know, water, and it had sort of an

9

amber orange color. I said, Well, it's not urine,

10

maybe it's iced-tea. So then he closed the door and

11

went back.

12 Q

What was it, do you know?

13 A

Probably iced-tea. Probably iced-tea. I had

14

forgotten it was in there.

15 Q

This was all at the scene?

16 A

Yup.

17 Q

At the scene he brought back to you a container of

18

liquid of some kind, asked you what was it, you

19

responded probably iced-tea and he poured it out?

20 A

Right in front of me, yeah, poured it right there,

21

but he also specifically asked me --- I don't know

22

if it was at the exact moment of the iced-tea

23

incident or just after, one of those times --- he

24

did specifically open the door and say, "So now what

25

is your valid reason for having a gun on"?

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MERRING

47

2 Q While you were sitting in the police car, he came
3 back to the car once again, opened the rear door of
4 the car?

5 A The passenger's rear door, that's where I was.

6 Q And again he inquired of you as to why you were
7 carrying a gun?

8 A Yes.

9 Q What did you say?

10 A "This is a free country. This is a free state. I
11 have an unrestricted license to carry a handgun, I
12 don't need to have a reason to have my handgun with
13 me." And he slammed the door. Oh, no, before he
14 slammed the door, let me correct that. "So what
15 you're telling me is you really don't have a valid
16 reason." Then he slammed the door.

17 Q So did they open your trunk, the trunk of your car
18 while you were at the scene?

19 A All the doors were open and the trunk. The only
20 thing not open was my hood.

21 Q Did any other officers come to the scene while you
22 were still there apart from Officer Delio and
23 Sergeant Welch?

24 A No. No. Just those two officers.

25 Q Apart from your hunting pack and the stick and the

1

MERRING

48

2 knife and the gun, did they find anything else in
3 your car?

4 A There is a slew of stuff. There could have been
5 there could have been a car seat, baby stroller.
6 There could have been a sun visor when I go to the
7 beach. There is just, you know, jumper cables in my
8 trunk. Probably, you know, a couple of quarts of
9 oil, just general.

10 Q Did they remove any of these items in the car at the
11 scene?

12 A What I could see, no. The only thing they
13 specifically removed that they brought to my
14 attention was the stick and the hunting backpack.
15 Once the hunting pack was rifled through, that was
16 thrown back in the car. Whether it was in the car
17 or trunk, I'm not sure where they put it.

18 Q By hunting pack, is that like a backpack?

19 A Backpack, camouflaged, made of fleece.

20 Q How long were you in the back seat of the car before
21 you were driven away?

22 A At least 15 minutes, maybe 20.

23 Q Did you have any other conversations with Officer
24 Delio at the scene after Sergeant Welch arrived?

25 A No. No. None. At the scene?

1

MERRING

49

2 Q Right.

3 A Right. While we were in the police car, that was
4 different.

5 Q Let's make it clear. So at the scene, after
6 Sergeant Welch arrived, you had no further
7 conversation with Officer Delio; is that correct?

8 A No.

9 Q That is correct?

10 A That's correct.

11 Q And then it was Officer Delio who drove the vehicle
12 away from the scene?

13 A Yes.

14 Q Was your vehicle still at the scene when you left?

15 A Yes, so was my handgun.

16 Q And the stick and the knife?

17 A Correct. Actually, no, just the knife. The stick
18 was in Officer Delio's patrol car in the front.

19 Q So when you left, the gun and the knife were still
20 at the scene, but the stick was in Delio's patrol
21 car; is that right?

22 A Correct.

23 Q Did you see any tow trucks arrive while you were at
24 the scene?

25 A No.

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MERRING

50

2 Q And where did you go from the scene?

3 A Officer Delio spun his vehicle around, and in a
4 matter of seconds as we're leaving, still in
5 complete shock, we were headed towards the police
6 department. I was assuming, I didn't know, but I
7 was assuming we were going back to the Tuxedo Police
8 Department.

9 Q Did you go back to the Tuxedo Police Department?

10 A Yes.

11 Q Directly from the scene you went to the Tuxedo
12 Police Department?

13 A Yeah, I vaguely remember asking, What is going on
14 here; what am being charged with? Officer Delio, I
15 believe, said --- reiterated, Criminal possession of
16 a knife, something like that. He wasn't very
17 talkative.

18 Q During the ride from the scene to the Tuxedo Police
19 Department, Officer Delio advised you you were being
20 charged with criminal possession of a knife?

21 A Not in those words. I may have said in --- not
22 verbatim, you know, What is going on here; what is
23 all this? I believe he may have restated that it
24 was criminal possession of a knife. I do remember
25 he did say --- I do remember he did say, I have your

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MERRING

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2

pistol license up here. I said, It's real. He

3

said, I'm going to call; I'm going to call the

4

sheriff. I said, Fine, call him.

5

Q Did he make any --- (interrupted)

6

A Not verbatim, but words to that extent.

7

Q Did he make any phone calls while you were being

8

transported?

9

A In the vehicle, no. No. No, he was driving.

10

Q Were there any other conversations on the ride to

11

the Tuxedo Police Department that you recall?

12

A Not that I could recall.

13

Q When you got to the Tuxedo Police Department, what

14

happened?

15

A He opened the door, Officer Delio opened the door.

16

I stepped out. I remember I stated, I'm terribly

17

embarrassed, to which he did not respond. He just

18

opened the building door, and escorted me up to the

19

office area.

20

Q Did you see anybody you knew while you were still at

21

the scene?

22

A Back to the scene now?

23

Q Let's go back to the scene for a moment. While you

24

were at the scene, did you see anybody you knew

25

apart from Officer Delio or Sergeant Welch?

1

MERRING

52

2 A Knew as an acquaintance, or new as in

3 (interrupted)

4 Q Anybody at all?

5 A There was no one else there, just me, the sergeant
6 and officer.

7 Q How long were you at the Tuxedo Police Department on
8 December 4?

9 A Total time?

10 Q Yes.

11 A Over an hour. Over an hour. Probably closer to an
12 hour-and-a-half.

13 Q Did you make any phone calls while you were at the
14 Tuxedo Police Department?

15 A Yes, I was allowed to make phone calls, to which I
16 made the first two, and no one answered. I called
17 my girlfriend first. I called my father second.
18 There was no answer, so I hung up and I called my
19 girlfriend again and she picked up.

20 Q What if anything did you tell her?

21 A I told her I was arrested for carrying a pocket
22 knife, don't get upset. Immediately she started to
23 get upset.

24 Q They can't help themselves.

25 A I said I was in Tuxedo Police Department, I need

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MERRING

53

2 you to call my father and contact an attorney.

3 Q Did she agree to do that?

4 A She agreed to do that. She was also going to come
5 down with my newborn --- our newborn. I told her
6 not to do so. And essentially it turned into me
7 calming her down and, you know, her trying to calm
8 me down, because I wasn't really upset or anything,
9 I was just mad.

10 Q So you were not feeling particularly upset when you
11 were at the police department?

12 A I didn't feel great. I was just arrested for no
13 reason.

14 Q She was more upset than you were?

15 A Absolutely.

16 Q And did you speak to an attorney at any time while
17 you were at Tuxedo Police Department?

18 A No, I did not.

19 Q Did you call any attorney while you were at the
20 Tuxedo Police Department?

21 A No, I only made that one phone call.

22 Q Did you speak to anyone else on the phone apart from
23 your girlfriend while you were still at the Tuxedo
24 Police Department?

25 A No.

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MERRING

54

2 Q Just the one phone call?

3 A The first two did not go through. I spoke to Regina
4 and that was the only one I spoke to over the
5 telephone.

6 Q Do you know whether or not your girlfriend was able
7 to reach your father?

8 A Well, the answer is she must have been, because he
9 was waiting for me after the scenario ended. He was
10 waiting for me at the Tuxedo Police Department, so
11 she must have.

12 Q So he picked you up; is that right?

13 A Correct.

14 Q Did you have any conversations with any police
15 officers while you were at the Tuxedo Police
16 Department?

17 A Only us three in the office.

18 Q The same three?

19 A The same three. As I'm on the phone, I _
20 (interrupted)

21 Q Let's work on this a little bit. We have to try not
22 to speak over each other for her sake.

23 A Sure.

24 Q So while you were at the Tuxedo Police Department,
25 were there only two police officers there that day?

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MERRING

55

2 A Sergeant Welch arrived maybe ten minutes after
3 Officer Delio had me in the office.

4 Q And did you see anyone else while you were in the
5 Tuxedo Police Department while you were released
6 apart from Sergeant Welch and Officer Delio?

7 A I don't remember anybody else being there but us
8 three that I saw. I did not see anybody else but us
9 three.

10 Q Did you have any conversations with Officer Delio at
11 the police department before Sergeant Welch arrived?

12 A I vaguely remember when I spoke to Regina, you know,
13 I may have been trying to calm her down a minute,
14 and I was trying to separate a little distance
15 between me and him. And I remember him yelling, you
16 know, There is no privacy here, stand back in front
17 of me. And in an angry tone again, as usual, same
18 as before.

19 Q So let's just make this clear. It's easier for me
20 if we have clear questions and responses on the
21 record. While you were on the phone with your
22 girlfriend, you tried to step away a little bit to
23 have privacy and Officer Delio said, There is no
24 privacy here?

25 A Maybe a quarter of a step, and then he said, No.

1

MERRING

56

2

No. No. There is no privacy here, talk in front of me.

3

4

Q Were your handcuffs on at that point?

5

A He removed them just prior to making the phone call.

6

Q How long after you got to the police department did he remove the handcuffs?

7

8

A Moments. Less than five minutes.

9

Q Okay. Apart from him telling you that there is no privacy here, were there any other conversations between you and Officer Delio before Sergeant Welch arrived at the police department?

10

11

12

13

A Other than after the phone call was made, I had asked him if he wanted my extra mags or my gun belt, he said, Yeah, I'll be taking those. He didn't immediately take them at that point. I remember he placed some stuff, whatever it was, on his desk or someone's desk in the other office room. I watched him do that, probably my pistol license and maybe some other stuff. And then I remember he asked me to sit down at the desk, and then probably at that time Sergeant Welch had arrived.

14

15

16

17

18

19

20

21

22

23

Q How many magazines were you carrying with you?

24

A One in the gun, two on my belt.

25

Q And how many rounds in a magazine?

1

MERRING

57

2 A Eight.

3 Q 24 total rounds then you had with you?

4 A Yes.

5 Q And what type of weapon was it?

6 A It was a Kimber.

7 Q Spell that?

8 A K-I-M-B-E-R, stainless gold watch match 191145ACP,

9 which stands for automatic colt pistol.

10 Q It was an automatic?

11 A It was a semi-automatic. There are no automatics in

12 New York State.

13 Q No legal ones?

14 A That is, that civilians can have anyway.

15 Q After Officer Sergeant Welch arrived, did you have

16 any conversations with him?

17 A Yes.

18 Q At any time after you arrived back at the police

19 department, were the handcuffs put back on you?

20 A No.

21 Q Were you restrained in any other way while you were

22 at the police department; by that I mean by chains

23 or any other locking devices?

24 A At that moment when Sergeant Welch arrived, no. We

25 were --- I was at the desk. We were at the desk, a

1

MERRING

58

2

desk, with a computer on it, which had a wall

3

directly in front of it.

4

Q So you were sitting at a chair immediately adjacent to a desk; is that right?

5

6

A I'm at a chair, the desk is in front of me, computer terminal is here, and there is a wall right there (indicating), and Sergeant Welch is to my right at his seat, and standing, and standing, sitting/standing.

10

11

Q Did the two of you have a conversation?

12

A without me really asking, he brought over a black book and I glanced at the title. It did say Penal Law, New York State. And he opened a page, or had it open to a page of Penal Law and he asked me to read a paragraph, which I did.

16

17

Q And you read it out loud?

18

A I read it to myself.

19

Q Did he ask you any questions about it after *you* read it?

20

21

A As I finished the paragraph, I specifically said, That does not pertain to me, to which he responded --- as he punched it Yes, it fucking does; I have been doing this for 11 years now, eight of those years as a sergeant.

22

23

24

25

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MERRING

59

2 Q Did you respond to that?

3 A I was silent. At that point I thought I was going
4 to be physically harmed.

5 Q What was it that made you think you were going to be
6 physically harmed?

7 A His demeanor, his tone, his physical aggression by
8 punching the book, his cursing.

9 Q Did he touch you at all while you were at the police
10 station?

11 A No. When he led me to the jail cell, yes, he had
12 his hands on me.

13 Q Other than that, did he strike you in any way?

14 A No. No. He did not strike me, but I felt as if he
15 could have. Remember, it was just us three in that
16 office.

17 Q So how long were you sitting at this desk with
18 Officer --- with Sergeant Welch?

19 A Probably around 15 minutes or so. Maybe 20.

20 Q Other than him showing you the Penal Law and the
21 conversation you had about the Penal Law, was there
22 any other conversation while you were seated at the
23 desk?

24 A Less than five minutes after he had punched the book
25 and cursed, he had asked me to stand up. He removed

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MERRING

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2

my gun belt, which had the holster and the magazine pouch on it, emptied my pockets of some cash, my wallet, change, my little Swiss Army knife as I remember, and then I'm going to say guided me, he was behind me, sort of nudging me from behind into or going down a staircase, going towards the jail cell.

9

Q

So you had another knife in your pocket?

10

A

A small Swiss Army knife.

11

Q

How big was that?

12

A

An inch well, inch-and-a-half.

13

Q

Open or closed?

14

A

Closed. The blade is probably an inch --- maybe an inch and 3/8 or an inch and a half. I'm pretty sure it is the smallest one they make.

17

Q

After he emptied your pockets, you say he took you to a cell of some kind?

19

A

Yes, as he's leading me to the cell, I remember stating to him, Is this absolutely necessary? Knowing he's going to put me in the jail cell, and he's proceeding to open the bars, the door, bar, the bar doors and he said, Yes, my chief is in, now get in.

25

Q

Did you go in?

2 A Yeah. I did not resist, if that's what you mean.

3 Q I just wanted to know if you walked in the jail
4 cell?

5 A Yes.

6 Q How big was it?

7 A It didn't seem that much smaller than a college dorm
8 room. I would say probably 10 X 10, maybe 10 X 12.

9 Q Was there anything in it?

10 A I remember the lights were off. I remember being
11 --- it seemed dark. No light really coming in other
12 than what was in the hallway. Stainless steel bed.
13 I remember a stainless steel toilet and a bench
14 area, something like that.

15 Q Anybody else in the cell?

16 A No one.

17 Q Did you have any conversation with anyone while you
18 were in the cell?

19 A Sergeant Welch came back, at least once, maybe twice
20 prior to that, during that time while I'm in the
21 cell, stated some strange things, wanted to know yet
22 again, the laws and the procedures of not being
23 only having a pistol license, but obtaining a
24 pistol.

25 Q He inquired of you what exactly, what did he say?

1

MERRING

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2 A You're in the business, you must know more about
3 this than I do, so what happens, you know, with the
4 pistol license system? So I, to the best of my
5 knowledge, tried to explain the pistol license
6 system whereas although it is a state license,
7 they're issued at county levels and each county has
8 their own set of rules or restrictions. So I
9 remember giving him the example of Broome County,
10 New York, where it is as difficult to get a pistol
11 license there as it is in New York City. To which
12 he absorbed that information and stated, Well, I
13 don't like the fact that you have a gun and that
14 you're with the NRA.

15 Q How did he know you're with the NRA?

16 A In my pistol license leather wallet, the pistol
17 license is on one face and on the other side is my
18 NRA card; obviously he went through that entire
19 wallet.

20 Q And how did you respond when he told you he didn't
21 like the fact you were in the NRA?

22 A I said, Well, you have a gun. And he responded,
23 Yes, and I'm a good shot, to which I was silent,
24 because his tone was not of a recreational demeanor.

25 Q What was his tone?

2 A Nazi-like. Authoritative. Trying to impress upon
3 me by intimidation that he has a handgun and he's a
4 good shot.

5 Q How long were you in the cell for?

6 A I would say roughly 20 minutes, half hour.

7 Q Who was it who came to get you out of the cell?

8 A Officer Delio came over, had some other forms, you
9 know, he wanted to know my eye color, my height and
10 weight. There was another I don't know what
11 that was --- form, but he was filling some paperwork
12 out. He wanted to go over some other stuff. He may
13 have asked my Social Security number at that time,
14 I'm not sure. And then once he left, then Sergeant
15 Welch came back and opened the door, the jail cell
16 door.

17 Q Was the jail cell door locked when you were in it?

18 A Yes.

19 Q After he opened the jail cell door, where did you
20 go?

21 A He escorted me up to an area just past the desk
22 where I was sitting for fingerprints and
23 photographs. They took a photograph of me holding
24 up one of those black cards across my chest,
25 proceeded to fingerprint me, and he explained to me,

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MERRING

64

2

Just stay limp wrist, I'll do it. So he did what he

3

had to do for the fingerprints, he did all that.

4

Once that was complete, he brought me to the

5

washroom to wash my --- ink off my hand, which I

6

did. We came back and he compiled a packet of

7

something, and then he also had something on the

8

computer, which he sent to Albany, he said.

9

Q

He said he sent it to Albany?

10

A

I watched him do it.

11

Q

When you say he had a packet of something?

12

A

You know, papers. Papers of what had just

13

transpired, stuff.

14

Q

Did he issue any type of citation?

15

A

At that moment, no.

16

Q

Did there come a time when he eventually issued you
a ticket of some kind?

17

18

A

Yes. Yes. At first he asked for bail.

19

Q

He asked you personally?

20

A

Yes.

21

Q

Let's go back. How long were you at the police
department after you got out of the cell?

22

23

A

Total time? At least 20 minutes.

24

Q

It's during that time that your fingerprints were
taken; correct?

25

1

MERRING

65

2 A Yes.

3 Q And certain other information was gathered and you
4 believe it was sent to Albany?

5 A Right, photographed, fingerprinted, he had some
6 other forms and stuff was on the computer. Now, it
7 very well could have been the stuff that was in the
8 forms was already on the computer and he just
9 printed hard copy.

10 Q And during that time also you had a conversation
11 regarding bail with Officer --- with Sergeant Welch?

12 A Yes, once all that was complete. I was sitting back
13 at the desk, my hands already washed from the ink,
14 and he had indicated the lowest bail he could set
15 for is \$100, so he handed me back my cash. I just
16 happened to have my cashed paycheck with me, and he
17 stated, I can't take it from you, because I'm on
18 video right now, so you have to hand me the \$100.
19 So I took \$100 out of my folded money I had and I
20 gave him \$100, to which he gave me a receipt.

21 Q After you received the receipt for the bail, what
22 happened?

23 A Things were relatively quiet. He stood me up, he
24 asked me to put the stuff back in my pockets. I
25 remember at that time seeing my handgun either in

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MERRING

66

2

his hands or Officer Delio's hands, one of them had

3

it open, of course, slide back, locked. I remember

4

him asking me to pick up my gun belt, and he

5

proceeded to let me back up. As I'm putting my

6

gun belt on, or near it, or had it, picking it up, I

7

remember Officer Delio specifically stating that I

8

was going 69 in a 55-mile-an-hour zone, to which I

9

stated something to the effect of I didn't know I

10

was speeding, and he became quite agitated.

11 Q

When you say he became quite agitated, what is it

12

that made you believe that?

13 A

Yelling, yelling again, Officer Delio, you know,

14

very authoritative, very demeaning, very arrogant in

15

a mad, loud tone.

16 Q

What did he say?

17 A

"Get out of my office" , and he motioned with his

18

arm, his right arm pointing towards ---

19 Q

How long did it take him to tell you to get out of

20

his office, just a moment?

21 A

However long it takes to say the sentence; it was

22

probably two or three seconds, I don't know.

23 Q

In addition to him telling you to get out of the

24

office, after he got upset, did he say anything else

25

to you?

1

MERRING

67

2 A No.

3 Q And did you get out of his office?

4 A I was in front of Sergeant Welch at the time, so as
5 Sergeant Welch was behind me, he's escorting me down
6 from behind, down a small staircase through a
7 doorway which led to the open area of the police
8 department, where I remember immediately seeing my
9 father sitting down.

10 Q After he told you to get out of his office, you left
11 the police department; is that correct?

12 A Not on my own. I was escorted by Sergeant Welch.

13 Q Was he touching you, Sergeant Welch?

14 A If it was, it was light. I had my leather jacket
15 on.

16 Q When you say escorted, he walked with you to the
17 exit?

18 A Correct. Correct, and behind me.

19 Q So I'm clear, during the walk to the exit, did
20 Officer Welch touch you at all, Sergeant Welch touch
21 you at all?

22 A At one time he may have put his hand on my jacket as
23 he's just bringing me down. Nothing out of the
24 ordinary, if I understand the question correctly.

25 Q I'm just trying to figure out what physical contact

1

MERRING

68

2 there was again. I'm just wondering if there was
3 physical contact between you and Sergeant Welch
4 after you walked out of the police department?

5 A It seemed that he was at least a step behind me.

6 Q When you got out in the public area of the police
7 department, your father was there?

8 A Sitting down, as I walked towards him.

9 Q What happened?

10 A I saw --- my father stood up and he asked the
11 officer, What is going on here? To which Officer
12 Welch --- Sergeant Welch did not say anything. My
13 father didn't continue the conversation.

14 Q He did not?

15 A He did not continue the conversation.

16 Q So did the two of you then leave the building?

17 A Sergeant Welch at that point said, Your license
18 checks out. He handed me my handgun back. And he
19 said, Load that outside, to which I did not respond.
20 I just took possession of my handgun in the open
21 position, kept it in my hand, and I proceeded to
22 walk outside with my father.

23 Q Did you load it after you got outside?

24 A No.

25 Q Does your father have a pistol permit?

2 A He does.

3 Q Was he a police officer?

4 A No.

5 Q And have you had any conversation with your father
6 about what transpired while he was in the police
7 station before you came out?

8 A Would you re-state that?

9 Q Did you talk to your father about what went on while
10 he was there before you were brought out; did he
11 speak to anyone, anything like that?

12 A If he did, I don't remember him saying. Nothing
13 really stands out. I remember maybe asking how long
14 he was waiting there, I don't remember what he said.
15 In essence, he was just sitting in the foyer area,
16 the main compartment area that leads up to the glass
17 desk. There is a few chairs there.

18 Q Did your father have a pistol permit while you were
19 growing UP?

20 A Yeah, he did.

21 Q After you left the police department, where did you
22 go?

23 A We went to go pick up my impounded car.

24 Q Where was it?

25 A At some point they must have the paperwork they

1

2

gave me at least had an address where they had my car.

3

4

Q Where was it?

5

A I'm not 100 percent, but I believe it's called

6

Tuxedo Auto Repair, or Tuxedo Auto. It's a

7

collision place. It almost shares the same parking

8

lot as the Red Apple Rest. It's like one big lot.

9

Q Half-mile down the road from the police department?

10

A If that.

11

Q Okay, did you have to pay anything to get your car?

12

A Over \$100.

13

Q Do you remember how much it was?

14

A Something, I remember like maybe 115, maybe 110 _

15

I think it was about 115 bucks.

16

Q Did you then get your car when you paid him the money?

17

18

A I told him who I was, he said there's an impound

19

fee, and he made a phone call to somebody, whoever

20

that somebody was, maybe to verify that I didn't

21

just escape or something. And he said, Okay, let's

22

get your car, but first I had to give him money.

23

Q So you got your car?

24

A I wrote a check for the money. My father had his

25

checkbook, I wrote a check.

1

MERRING

71

2 Q How long were you at the impound place for?

3 A Less than ten minutes.

4 Q You got your car?

5 A I did.

6 Q Where did you go?

7 A I spoke to my father for a few minutes, trying to
8 recollect what the hell just happened, and I went to
9 work.

10 Q What time did you get to work?

11 A I don't remember exactly. It was before noon. It
12 was some time between 11:00 and noon.

13 Q So apart from that two hours or three hours, did you
14 miss any other time from work as a result of this
15 arrest?

16 A No. No. That was --- I went straight to work after
17 I picked up my car.

18 Q You worked the whole day?

19 A Yeah, I worked until 4:00 that day. That is my time
20 to work until, because then I had to pick up my son
21 from school.

22 Q Does your son live with you?

23 A Part-time; we have joint custody.

24 Q What was your first wife's name?

25 A Linda Petty, P-E-T-T-Y.

1

MERRING

72

2 Q So where does your son live when he's not with *you*?

3 A I don't remember at that time if she --- I had to
4 drive to pick him up somewhere, she must have been
5 --- I believe she --- it may have been in the
6 interim. She was living with her brother in upper
7 Grandview, New York, at the foot of the Tappan Zee
8 Bridge, but she was courted by another man who lived
9 a few miles away, Sparkhill, New York.

10 Q You went and picked up your son and you went home
11 with your son?

12 A Well, after work, sure.

13 Q You went to Southfields?

14 A Well, at that time, because it is very difficult for
15 me to have any real time with him, drive all around,
16 so at that time, as I remember, I don't remember
17 being I don't remember going to my father's, I
18 may have, I really don't remember, but I may have
19 gone to my father's after that, I'm not sure, you
20 know, picked him up from school and gone to my
21 father's residence. I don't remember really.

22 Q You don't remember what you did after work after
23 picking up your son?

24 A It was at that point I was trying to put a lot of
25 stuff behind me, I don't remember what I did with my

1

MERRING

73

2

son other than just enjoy the time I had with him.

3

Q Do you remember what day of the week this occurred?

4

A Monday, it was the day after my birthday.

5

Q Were you scheduled to work Tuesday?

6

A Yes.

7

Q Did you work Tuesday?

8

A Yes.

9

Q Did you suffer any physical injuries as a result of
10 this arrest?

11

A No, other than --- something that would need medical
12 attention, do you mean?

13

Q Well, let's start with that. Have you had any
14 medical attention as a result of injuries you
15 suffered following this arrest?

16

A No. I mean, other than handcuffs being on tight or,
17 you know, just being bullied around, no.

18

Q How about psychological injuries?

19

A Yeah.

20

Q Have you been treated for any psychological
21 injuries?

22

A It completely shattered my trust in local police.

23

Q Did you go for treatment for any psychological
24 problem?

25

A No. No.

1

MERRING

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2 Q Did there come a time when you appeared in court as
3 a result of the arrest?

4 A Yes.

5 Q When was your first court appearance following the
6 arrest of December 4?

7 A Originally it was scheduled for the Christmas week,
8 to which we, my attorney, Mr. Klein and I, changed
9 that, because it was a busy week, so that was
10 adjourned until January 25, 2007.

11 Q And did you go to court on January 25?

12 A I was present with my attorney.

13 Q And what happened in court that day?

14 A Mr. Klein advised me that there was a lot of
15 background investigation that he did on his part and
16 that he was going to see the assistant DA once he
17 arrived, Luke Bulville (phonetic), and that he was
18 going to get the best possible outcome.

19 Q Did you overhear any conversations between Mr. Klein
20 and Mr. Bulville?

21 A No.

22 Q Did you see anybody you knew in court that day apart
23 from Mr. Klein?

24 A No.

25 Q And how long were you in court that day?

MERRING

75

1

2 A Total time, from the moment I arrived until the
3 moment I left?

4 Q Yes.

5 A It was over an hour.

6 Q Was it two hours?

7 A It was a full docket, but I remember us going up
8 pretty early. I would have to say less than two
9 hours.

10 Q And when you went up to the bench, what happened?

11 A I was asked to come up, I was --- my name was called
12 by the judge. I went up. Mr. Klein was right next
13 to me, after which the charges were read by the
14 judge, and Luke Bulville had indicated immediately
15 that he was withdrawing the charges, the case was
16 ___ the charge for criminal possession would be
17 withdrawn or similarly dismissed, I would be
18 pleading to parking on pavement for the speeding
19 ticket. And that was agreed to by my attorney, Mr.
20 Klein and myself.

21 Q And did you plead guilty to parking on pavement?

22 A I did.

23 Q And did you pay a fine?

24 A No. We used the bail money that was already taken
25 from me by Sergeant Welch to apply to that. I do

1

MERRING

76

2

remember I had to borrow a couple of dollars from

3

Lee because I was a couple of bucks short because

4

they needed some processing fees. It was like 102

5

or \$103.

6 Q

So the fine was about 100 bucks, it was a few

7

dollars in processing?

8 A

Yeah.

9 Q

Did you overhear any conversations between Mr. Klein

10

and anyone else while you were in the Tuxedo court

11

that day?

12 A

No.

13 Q

Has Mr. Klein showed you any documents concerning

14

the investigation that he did prior to your

15

appearing in court?

16 A

He would always copy me on any remittance that he

17

would generate from the company who built the knife,

18

the lawyers for the company who manufactured the

19

knife, other documents pertaining to the

20

investigation. There may have been a copy sent to

21

me from Luke Bulville. If it was, it wasn't

22

anything in detail. Maybe just explaining the

23

scenario and, you know.

24 Q

Did you receive correspondence from the district

25

attorney's office?

1

MERRING

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2 A Not directly; anything I got was received by my
3 attorney, Lee Klein.

4 Q Did you review any documents before you came in to
5 testify here today?

6 A I did.

7 Q What did you review?

8 A I reviewed the Notice of Claim somewhat.

9 Q You have a file in front of you, did you review all
10 the documents in front --- (interrupted)

11 A Not every single page. I just looked through.

12 Q Apart from the Notice of Claim, what other materials
13 did you review before testifying today?

14 A My statement that I had --- (interrupted)

15 Q That you had what?

16 A written for the case.

17 Q Who did you write that statement for?

18 A My attorney. Lee Klein.

19 Q Do you have that with you today?

20 A I do.

21 Q Can I see it, please?

22 A (Hanging)

23 Q Did you review anything else besides the Notice of
24 Claim and statement you have just handed me?

25 A The certificates of disposition.

1

MERRING

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2 Q We have already looked at those; is that correct?

3 A I did. You looked at one of them, yes.

4 Q You have more than one certificate of disposition
5 with you today?

6 A I do.

7 Q What is the other one for?

A For aggravated unlicensed operation of a vehicle by
9 the Tuxedo police, which was dismissed because I was
10 never s~Rended ever.

11 BY MR. WALSH:

12 Take that out too. Mark this, please.

13

14 (STATEMENT RECEIVED AND MARKED

15 AS RESPONDENT'S EXHIBIT B FOR

16 IDENTIFICATION)

17

18 Q I show you what we marked as Defendant's B for
19 Identification. Just for the record, would you
20 identify that for me, please?

21 A Identify the paper I just handed you?

22 Q Yes, just tell us what it is?

23 A This is my statement as to what happened on December
24 4, 2006 at approximately 9:00 a.m. from start to
25 finish.

1

MERRING

79

2 Q And, again, that is a document you reviewed before
3 you testified today; correct?

4 A I did not read it word for word.

5 Q But you reviewed it before you testified?

6 A I just glanced over it.

7 Q And then you had certificate of disposition
8 concerning the unlicensed operation of a vehicle;
9 may I see that?

10 A (Handing)

11 BY MR. WALSH:

12 Mark that.

13

14 (CERTIFICATE OF DISPOSITION
15 RECEIVED AND MARKED AS RESPONDENT'S
16 EXHIBIT C FOR IDENTIFICATION)
17

18 A I carry them in my car.

19 Q We have marked as Respondent's Exhibit C for
20 Identification for today's date, that is another
21 document that you looked at before you testified
22 here today; is that correct?

23 A I only looked at it when I was looking for the other
24 certificate of disposition.

25 Q Anything else that you looked at before you

1

MERRING

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testified here today besides Band C and the

3

certificate of disposition on the weapons charge?

4 A

Right. B, C, certificate of disposition for --_

5

(interrupted)

6 Q

weapons charge?

7 A

For the weapons charge.

8 Q

And the Notice of Claim?

9 A

The Notice of Claim.

10 Q

Anything else you looked at before you testified?

11 A

Other than my letter from Lee scheduling the 50-H

12

hearing for today.

13 Q

Have we covered everything you looked at before you

14

testified?

15 A

Yes. Yes. That's it.

16

BY MR. WALSH:

17

Why don't we mark the other certificate of

18

disposition as D if we could.

19

20

(CERTIFICATE OF DISPOSITION

21

RECEIVED AND MARKED AS RESPONDENT'S

22

EXHIBIT D FOR IDENTIFICATION)

23

24

BY MR. WALSH:

25

Just note for the record, we have marked the

1

MERRING

81

2

other certificate of disposition as

3

Respondent's D for today's date that deals

4

with the weapons charge. Can I get copies of

5

these?

6

BY MR. KLEIN:

7

Sure.

8

BY MR. WALSH:

9

Thanks.

10 Q

Okay, have you incurred any legal costs as a result
of the arrest?

11

12 A

Significant costs.

13 Q

Was Mr. Klein your only attorney in this particular
matter?

14

15 A

Yes.

16 Q

And what was his fee?

17 A

Total fee was --- well, it was over \$100 for the
tow, for the impounding fees.

18

19 Q

I'm only asking for the --- (interrupted)

20 A

Just attorney's fee?

21 Q

Yes, just attorney's fee?

22 A

The attorney's fee was \$4,000.

23 Q

Worth every penny.

24 A

When I say significant, significant for me.

25

BY MR. KLEIN:

1

MERRING

82

2

Wait for the question.

3

BY MR. WALSH:

4

Q

\$4,000 is money to anybody. So *you* had the legal fee; correct?

5

6

A

Correct.

7

Q

You had the impoundment fee?

8

A

Right.

9

Q

And *you* had a fine?

10

A

Right.

11

Q

Any other expenses associated with this arrest?

12

BY MR. KLEIN:

13

For instance, losing time from work, dock in

14

pay.

15

BY MR. WALSH:

16

I already asked him if he lost time from work.

17

He said no.

18

A

Of course I lost --- I was supposed to be at work at 9:00. I didn't get back until noon. Three hours there.

19

20

21

BY MR. KLEIN:

22

He wants to know docked pay.

23

BY THE WITNESS:

24

A

I did not get paid. I missed the time. I didn't get paid for it.

25

1

MERRING

83

2

BY MR. WALSH:

3

Q How much were you getting an hour then?

4

A \$12 an hour.

5

Q Another 40 bucks?

6

A Roughly.

7

Q Any other costs associated with this arrest,
8 expenses?

9

A Other than the cost of driving up to see my
10 attorney, Lee Klein, taking time off for those
11 interviews and those meetings, which were several
12 that I could recall.

13

Q How much time did you lose from work to consult with
14 your attorney?

15

A Total?

16

Q Yes.

17

A Total time I would probably say a full day's pay, if
18 you encapsulate it into one time, maybe a little
19 more.

20

Q How much do you figure that would be worth, 100
21 bucks?

22

A Yeah, roughly. Maybe a little more. And then
23 gasoline coming up and down, tolls.

24

Q Anything else you can think of?

25

A I have not yet received my knife, so that is still

1

MERRING

84

2

gone. I did not get that returned to me by the

3

police department, so that was over a \$100 knife.

4 Q

What kind of knife was it?

5 A

They're high-end knives. It is not a _

6

(interrupted)

7 Q

I'm not questioning you. I'm just asking what kind

8

of knife it was?

9 A

Very well made high-end knife.

10

BY MR. KLEIN:

11

Tell him what kind of knife.

12

BY THE WITNESS:

13 A

Specifically, it's a Spyderco, S-P-Y-D-E-R-C-O.

14

BY MR. WALSH:

15 Q

Like Spyderco?

16 A

Meaning Spyderco Company.

17 Q

And it cost about 120 bucks when you bought it?

18 A

Yeah.

19 Q

Did they still have the stick?

20 A

That was part of the agreement between Lee Klein and

21

the assistant DA, that it wasn't necessary for us to

22

retrieve that.

23 Q

So the police officers still have the stick and the

24

knife?

25 A

I don't know where it is. They have my knife.

1

MERRING

85

2 Somebody has my knife.

3 Q Was the knife part of any agreement?

4 A No.

5 BY MR. KLEIN:

6 Off the record.

7

8 (OFF THE RECORD DISCUSSION)

9

10 BY MR. WALSH:

11 Q Do they still possess anything else of yours, the
12 police department, besides the knife that you're
13 aware of?

14 A No.

15 Q Has anybody ever advised you that they were aware of
16 the fact that you got arrested; did it appear in the
17 newspaper, anything like that?

18 A That I'm aware of? I'm not aware of that it
19 appeared in the newspaper at all.

20 Q Did you talk to your employers about the arrest?

21 A Of course.

22 Q What was their view of the whole thing?

23 A That the Tuxedo police are corrupt.

24 Q They didn't hold it against you, your employers?

25 A No, not at all. Matter of fact, it was almost at

1

MERRING

86

2

the same time the owner Wayne Davis was on the phone

3

with me, because there must have been some advance

4

knowledge from my girlfriend Regina to his wife,

5

Terry, who was at the store, to say what had

6

happened, where I was. Getting quickly me

7

getting to work I was surrounded by co-workers who

8

were supporting me, especially Wayne Davis on the

9

telephone saying, Call the NCRA and make sure you

10

get an NRA attorney, because it is very important

11

that you fight this.

12 Q

So your employers did not hold the arrest against

13

you; is that right?

14 A

No.

15 Q

Your co-employees did not hold it against yOU?

16 A

No, they know I'm not a criminal.

17

BY MR. WALSH:

18

Okay. I have no more questions. Thank you

19

very much.

20

21

(Continued on next page to include jurat)

22

23

24

25

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MERRING

87

2

BY THE WITNESS:

3

Thanks.

4

BY MR. KLEIN:

5

Thanks.

6

7

8

9

10

Sworn to before me this d.)..o) day

11

of

12

13

X

14

NOTARY PUBLIC

15

16

17

18

19

20

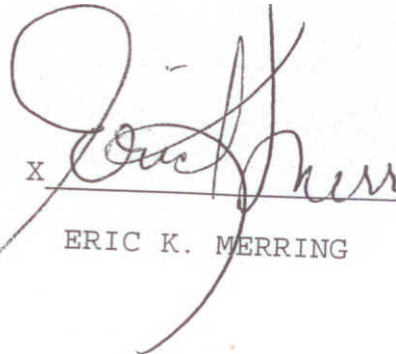
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X 
ERIC K. MERRING

!JWI
~d#Z

LEE DAVID KLEIN
Notary Public, State of New York 1
Qualified in D~tche9SCounty / U
Commission Expires Oct. 14,20_

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MERRING

88

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RESPONDENT'S EXHIBITS FOR IDENTIFICATION

3

4

LETTER

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Certificate of disposition

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MERRING

89

2 STATE OF NEW YORK

3 SS.

4 COUNTY OF DUTCHESS

5

6 I, JENNIFER CEA, a stenotype reporter and
7 Notary Public within and for the State of
8 New York, do hereby certify:

9

10 That, ERIC K. MERRING, the witness whose
11 deposition is hereinbefore set forth, was duly
12 sworn by me, and that the transcript of said
13 deposition is a true record of the testimony given
14 by such witness.

15

16 I further certify that I am not related to any
17 of the parties to this action by blood or marriage,
18 and that I am in no way interested in the outcome
19 of this matter.

20

21 IN WITNESS WHEREOF, I have hereunto set my
22 hand this m+R day of j..W.. 2007.

23

24

25

xt:t ~
J~!n~CEA

1

2

LAWYER'S NOTES

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